

CWP No.17147 of 2012;
CWP No.17323 of 2012 &
CWP No.17726 of 2012

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Date of decision: 01.03.2016

CWP No.17147 of 2012 (O&M)

Dr. Vikrant Saroa

...Petitioner

Vs.

State of Punjab & another

...Respondents

CWP No.17323 of 2012 (O&M)

Dr. Lovedeep Rohel

...Petitioner

Vs.

State of Punjab & another

...Respondents

CWP No.17726 of 2012 (O&M)

Sandeep Kandara

...Petitioner

Vs.

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Vivek Sharma, Advocate, for the petitioner
in CWP No.17147 of 2012.

Mr. K.S.Dadwal, Advocate, for the petitioner
in CWP No.17323 of 2012.

Mr. P.M.Kansal, Advocate, for
Mr. D.R.Sharma, Advocate, for the petitioner
in CWP No.17726 of 2012.

Mr. Inqulab Nagpal, Addl. AG, Punjab.

RAJIV NARAIN RAINA, J. (ORAL)

1. This order will dispose of above cases bearing CWP Nos.17147 of 2012; 17323 of 2012 & 17726 of 2012, as common questions of law and fact are involved in them, which can conveniently be decided by a common order.

2. All the three petitioners namely Dr. Vikrant Saroa; Dr. Lovedeep Rohel & Sandeep Kandara competed for the post of Medical Officer (Dental) by way of direct recruitment. They are all successful on merit in the result declared, but have not been offered appointments due to the fact that the domicile certificates submitted by them do not show that they belong to the State of Punjab as its residents. They have been held ineligible for appointment. However, each of the three petitioners holds scheduled caste certificates issued to them by the competent authority in the State of Punjab being the Tehsildars of the respective districts where the petitioners belong. All the petitioners are members of the Scheduled Castes. Copies of their (Dr. Vikrant Saroa; Dr. Lovedeep Rohel & Sandeep Kandara) Caste certificates dated 08.02.2004, 03.09.2010 & 07.05.2010 have been attached with their respective writ petitions at Annex P-3; P-4 & P-8 respectively. Each of the petitioners has attached several documents disclosing their residential status in the State of Punjab.

3. On the other hand, the stand of the State is that since the domicile certificates of all the petitioners do not show that they are residing in Punjab, therefore, the benefit of reservation in appointment cannot be given to them in the reserved category.

4. Interestingly, all the three petitioners possess BDS degrees obtained from Dental Colleges falling within the territories of the State of Punjab. Mr. Vivek Sharma's client namely Dr. Vikrant Saroa has studied in

Punjab throughout from School till BDS. Mr. Dadwal's client namely Dr. Lovedeep Rohel was born in Ludhiana. He was placed in the fortuitous circumstance that his father was an employee of the All India Radio (AIR), which is a Central Government service and suffers all India transfers and postings to which he accompanied his father. Nevertheless he retired from service while serving AIR at Patiala, where he settled down in a residential house where the family presently resides. Mr. Dadwal asserts that it is the only residential house, the family owns in India.

5. The respondents have demanded Scheduled Castes certificates of the father of the petitioners, which have been supplied, which also show that the petitioners by birth are members of the scheduled castes. The scheduled castes certificates, in each of the cases, have been issued prior to the cut-off date mentioned in the advertisement for receiving applications. In these circumstances, it appears wholly unfair that State should not offer appointments to the petitioners as per their merit determined by CDAC, the selection authority deputed by the State Government to make the recruitment. It is beyond doubt that the petitioners are scheduled castes candidates and reside in Punjab which is their native State. It is not the case that the caste certificates are not genuine. This is a fit case for interference since the impugned decision is irrational and based on irrelevant considerations. Moreover, the impugned action flies in the face of legal and valid caste certificates issued by the competent authority.

6. It may be mentioned that an interim order has been passed in these entire writ petitions to keep one post unfilled to await the result of the petitions. This makes grant of relief easier and takes care of third party rights from being affected such as displacement of those already appointed.

7. As a result of the above discussion, all the three petitions are allowed. The impugned declaration of ineligibility recorded by the respondents in their record/s that the petitioners are not domicile of Punjab is held to be illegal and arbitrary and is therefore quashed by issuing certiorari. As a necessary corollary a writ of mandamus is issued to the respondents to consider appointing the petitioners to the post of Medical Officer (Dental). In the event of appointments being offered, the petitioners shall take their seniority in their batch as per their merit determined by the CDAC. Their pay will be at par with batch mates. The petitioners shall take arrears of salary from the date of filing of their respective petitions since they have been illegally deprived of appointment and discharging duties for the palpably wrong reasons. The consideration under this order is directed to take place and achieve its finality within 6 weeks from the date of supply of a certified copy of the order. Remaining formalities of character verification, medical etc. be completed as soon as practicable. The State shall be free to recover the monetary implications of this order from those found responsible for illegally denying appointments with callous disregard of their duties and responsibilities and the rights of three fellow citizens who have been compelled to litigate at much expense and time.

01.03.2016
Vimal

[RAJIV NARAIN RAINA]
JUDGE